

Discard Earlier Pocket Supplement

2018 POCKET SUPPLEMENT

ISSUED IN DECEMBER, 2017

COVERING LEGISLATION THROUGH ALL 859 CHAPTERS OF THE
2017 REGULAR SESSION

DEERING'S GOVERNMENT CODE

ANNOTATED

OF THE STATE OF CALIFORNIA

§§ 1-999

Annotated and Indexed by the Publisher's Editorial Staff

Note—An updated analysis for the code sections contained in this volume
appears at the beginning of this supplement.



LexisNexis®

ITEM-87

ARTICLE 2

TERRITORIAL JURISDICTION

§ 110. Extent of State sovereignty and jurisdiction

NOTES TO DECISIONS

5. Jurisdiction of State: Indian Reservations

Federal recognition and the acceptance of land in trust gave an Indian tribe jurisdiction over its reservation; thus, a compact between California and the tribe authorizing a casino, containing the tribe's consent to the retention of broad jurisdiction by the state, and precluding the state from prohibiting gaming activity

authorized by the compact, was lawful. *Stop the Casino 101 Coalition v. Brown* (Cal. App. 1st Dist. Oct. 3, 2014), 230 Cal. App. 4th 280, 178 Cal. Rptr. 3d 481, 2014 Cal. App. LEXIS 886, modified, (Cal. App. 1st Dist. Oct. 28, 2014), 2014 Cal. App. LEXIS 986, cert. denied, (U.S. May 26, 2015), 135 S. Ct. 2364, 192 L. Ed. 2d 147, 2015 U.S. LEXIS 3435.

RESEARCH REFERENCES AND PRACTICE AIDS

ALR Fed

Construction and Application of § 2 of Federal Public Law 280, Codified At 18 U.S.C.A. § 1162, Under Which Congress Expressly

Granted Several States Criminal Jurisdiction Over Matters Involving Indians 55 ALR Fed2d 35.

§ 113. Consent to retrocession of jurisdiction by United States; Conditions for recording order or resolution

The Legislature, acting through the State Lands Commission, hereby consents to the retrocession of jurisdiction by the United States over land within this state upon and subject to each and all of the following express conditions:

(a) The United States must in writing have requested state acceptance of the retrocession, and unless there is an officer of the United States empowered by a United States statute to retrocede jurisdiction, the request shall be by the act of Congress. The retrocession may return all jurisdiction to the state or may provide for concurrent jurisdiction.

(b) The proposed retrocession is in the best interest of the state.

(c) A notice of the proposed retrocession has been given to the clerk for the board of supervisors of each county in which the federal lands are located at least 15 days before the proposed retrocession is considered by the State Lands Commission.

(d) The United States has agreed to bear all costs and expenses incurred by the State Lands Commission in making the retrocession.

(e) The acceptance of the retrocession shall be made at a publicly noticed meeting of the State Lands Commission. The determination of the State Lands Commission shall be final and the retrocession of jurisdiction accepted shall become effective when certified copies of its orders or resolutions have been recorded in the office of the county recorder of each county in which any part of the land is situated. The State Lands Commission shall

keep copies of its orders or resolutions and make them available to the public upon request.

HISTORY:

Added Stats 1967 ch 1204 § 1. Amended Stats 1998 ch 829 § 23 (SB 1652); Stats 2015 ch 683 § 35 (SB 798), effective January 1, 2016.

Amendments:

2015 Amendment: (1) Amended the introductory clause by substituting (a) “; acting through the State Lands Commission,” for “of California”; and (b) “over land within” for “of land within”; (2) amended the first sentence of subd (a) by (a) adding “the” after “state acceptance of”; and (b) substituting “retrocede” for “cede”; (3) deleted former subd (b) which read: “(b) When the conditions of subdivision (a) have been found and declared to have occurred and

to exist, by the State Lands Commission, the commission shall hold a hearing to determine whether acceptance of the retrocession is in the best interests of the state. Notice of the hearing shall be published pursuant to Section 6061 in each county in which the land or any part of the land is situated and a copy of the notice shall be personally served upon the clerk of the board of supervisors of each such county. The State Lands Commission shall make rules and regulations governing the conditions and procedure of the hearings.”; (4) added subds (c) and (d); (5) redesignated former subd (c) to be subd (e); and (6) amended subd (e) by (a) adding the first sentence; and (b) adding “the retrocession of” in the second sentence.

§ 126. Cession of concurrent criminal jurisdiction to United States

(a) Notwithstanding any other provision of law, general or special, the Legislature of California, acting through the State Lands Commission, hereby cedes concurrent criminal jurisdiction to the United States within lands identified and held by the United States upon and subject to each and all of the following express limitations, conditions, and reservations, in addition to any other limitations, conditions, or reservations prescribed by law:

(1) Before making a cession, the State Lands Commission shall make the following findings:

(A) The United States has requested in writing the state to cede concurrent criminal jurisdiction within the identified lands.

(B) The lands are held by the United States for the erection of forts, magazines, arsenals, dockyards, and other needful buildings within the purview of clause 17 of Section 8 of Article I of the United States Constitution, or for any other federal purposes. For purposes of this section, lands held by the United States are defined as: (i) lands acquired in fee by purchase or condemnation, (ii) lands owned by the United States that are included in the military reservation by presidential proclamation or act of Congress, (iii) any other lands owned by the United States, including, but not limited to, public domain lands that are held for a public purpose, and (iv) leaseholds acquired by the United States over private lands or state-owned lands that are held for a public purpose.

(C) The cession is made pursuant to and in compliance with the laws of the United States.

(D) A notice of the proposed cession has been given to the clerk for the board of supervisors of the county in which the federal lands are located at least 15 days before the proposed cession.

(E) The proposed cession is in the best interests of the State of California.

(F) The United States has agreed to bear all costs and expenses incurred by the State Lands Commission in making the cession.

(2) The cession shall continue only so long as the lands are owned by the United States and used for the purposes for which jurisdiction is ceded or for 10 years, whichever period is less.

(3) The cession shall be made at a publicly noticed meeting of the State Lands Commission. The cession shall vest when the State Lands Commission has received notice of the United States' acceptance of the cession and certified copies of the State Lands Commission's orders or resolutions making the findings described in paragraph (1) have been recorded in the office of the county recorder of each county in which any part of the land is situated. The State Lands Commission shall keep copies of its orders or resolutions in its records and make them available to the public upon request.

(b) In ceding concurrent criminal jurisdiction, the Legislature and the state reserve jurisdiction over the land, water, and use of water with full power to control and regulate the acquisition, use, control, and distribution of water with respect to the land affected by the cession.

HISTORY:

Added Stats 1st Ex Sess 1946 ch 154 § 1. Amended Stats 1947 ch 1532 § 1; Stats 1951 ch 875 § 1; Stats 1953 ch 1856 § 1; Stats 1955 ch 649 § 1; Stats 1957 ch 357 § 1; Stats 1959 ch 1485 § 1, effective July 6, 1959; Stats 1961 ch 966 § 1, effective July 6, 1961; Stats 1976 ch 686 § 1, effective August 30, 1976; Stats 1998 ch 829 § 24 (SB 1652); Stats 2014 ch 512 § 1 (AB 2764), effective January 1, 2015.

Amendments:

2014 Amendment: Substituted the section for the former section which read: "Notwithstanding any other provision of law, general or special, the Legislature of California hereby cedes concurrent criminal jurisdiction to the United States within land held by the United States upon and subject to each and all of the following express limitations, conditions, and reservations, in addition to any other limitations, conditions, or reservations prescribed by law: (a) The lands must be held by the United States for the erection of forts, magazines, arsenals, dockyards, and other heedful buildings, or other public purpose within the purview of clause 17 of Section 8 of Article I of the Constitution of the United States, or for the establishment, consolidation, and extension of national forests under the act of Congress approved March 1, 1911, (36 Stat. 961) known as the Weeks Act, or for any other federal purposes. (b) The cession must be pursuant to and in compliance with the laws of the United States. (c) The United States must in writing have requested the state to cede concurrent criminal jurisdiction within such land and subject to each and all of the conditions and reservations in this section and in Section 7 of Article X of the Constitution prescribed. (d) The State Lands Commission is authorized for the state to cede concurrent criminal jurisdiction to the United States, upon having found and declared that the conditions and reservations prescribed in subdivisions (a), (b), (c), and (g) have occurred and exist and that the cession is in the interest of the state. Certified copies of its orders or resolutions making these findings and declarations shall be recorded in the office of the county recorder of each county in which any part of the land is situated. The State Lands Commission shall keep copies of its orders or resolutions and make them available to the public upon request. The purposes for which concurrent criminal jurisdiction is ceded shall be specified in and made a part of the orders or resolutions. (e) Jurisdiction ceded pursuant to this section continues only so long as the land continues to belong to the United States and is held by it for the purpose for which jurisdiction is ceded in accordance and in compliance with each and all of the limitations, conditions, and reservations in this section prescribed, or for five years, whichever period is less. (f) Land held by the United States, as used in this section means: (1) lands acquired in fee by purchase or condemnation, (2) lands owned by the United States that are included in the military reservation by presidential proclamation or act of Congress, (3) leaseholds acquired by the United States over private lands or state-owned lands, and (4) any other